THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2085 OF 2006

DATED: 21-04-2006

BETWEEN

Nimrah Estate Private Limited,

Rep. by its Managing Director,

Abood Bin Aslam,

R/o.19-3-425/A,

Jahanuma, Hyderabad

...PETITIONER

AND

Municipal Corporation of Hyderabad,

Rep. by its Commissioner, Tankbund,

Basheerbagh, Hyderabad and another.

...RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner, the learned standing counsel appearing for the first respondent and the learned counsel appearing for the second respondent.

Learned counsel for the petitioner submits that the petitioner-company purchased property bearing Municipal Nos.20-4-62/J,
20-4-62/K, 20-4-62/L and 20-4-62/M totally admeasuring

693 sq. yards situated at Punch Mohalla, Hyderabad vide three different registered sale deeds executed in the month of March and April 2005. The second respondent is the owner of the neighbouring property of the petitioner situated on the Eastern side bearing No.20-4-87 and 88 situated at Shalibanda, Hyderabad. He further submits that originally the second respondent had an extent of 20' X 24' of land out of which the municipality acquired an extent of 20' X 20' for the purpose of road widening leaving behind only an extent of 4' X 20'. He further submits that on the remaining strip of land the second respondent is raising construction of 2 to 3 stories contrary to the Building Bye-laws. Therefore, the petitioner was constrained to file a suit in O.S.No.8373 of 2005 on the file of the II Junior Civil Judge, City Civil Court, Hyderabad seeking permanent injunction restraining the second respondent from making illegal constructions. Though initially the civil Court granted status quo in I.A.No.3045 of 2005 by order dated 20.12.2005 the same was vacated on 31.01.2006, therefore, the second respondent is proceeding with further illegal construction.

Learned counsel for the second respondent submits that, in fact, the total extent of land held by the second respondent is 28'.5" X 22' admeasuring 69.45 sq. yards in respect of the property bearing No.20-4-87 & 88 situated at Punch Mohalla, Hyderabad. He further submits that for the purpose of road widening an extent of 20' X 22' i.e. 48.89 sq. yards has been acquired and there remains an extent of 8'.5" X 22' i.e. 20.56 sq. yards. The contention of the petitioner that there remains only an extent of 4' X 20' is incorrect. He further submits that as the first respondent has not paid adequate compensation to her, he granted oral permission to raise construction, as the area is less than 100 sq. yards. However, it is stated that he applied for permission to construct ground and first floor and while application for building permission is under consideration the petitioner file O.S.No.8373 of 2005 in which initially status quo order was orders and thereafter the same was vacated. Having failed to stall the construction the petitioner approached this Court with malafide intention.

I am not inclined to express any opinion with regard to the said contentions of the petitioner as the fact remains that a major portion of the land of the second respondent was acquired for road widening and according to the second respondent there remains an extent of 8'.5" X 22' of land. However, as the representations dated 01.12.2005 and 27.12.2005 filed by the petitioner and the application for building permission filed by the second respondent before

the first respondent are pending, the first respondent is directed to consider and dispose the said representations of the petitioner as well as the application of the second respondent after giving reasonable opportunity to the petitioner as well as the second respondent within four weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

April 21, 2006

Note: Furnish C.C. of the order by 24.04.2006

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DSK